

APRIL 15, 2003

SCHAKOWSKY: *DON'T LET GUN INDUSTRY OFF THE HOOK*

CHICAGO, IL - U.S. Representative Jan Schakowsky (D-IL) today vowed to work against H.R. 1306, legislation that *"unfairly grants the gun industry immunity and takes away an individual's or state's ability to hold gun manufacturers, gun dealers, and gun trade associations accountable to negligence and product liability standards."*

□ Schakowsky joined advocates of sensible gun safety legislation and victims of gun violence to call on the Senate to oppose H.R. 1306, the Protection of Lawful Commerce in Arms Act, which was approved by the House last week.□□

"The bill perpetuates the gun industry's disregard for public safety and holds up their 'see-no-evil, hear-no-evil, speak-no-evil' approach to gun manufacturing and distribution.□ The gun industry should be held accountable to its consumers and victims in the same way that every other industry is.□ As it is, guns are one of the few consumer products that are exempt from health and safety regulations," Schakowsky said.

Schakowsky warned that if H.R. 1036 becomes law, a case that was brought against a number of gun manufacturers, gun distributors, and gun dealers by the City of Chicago and Cook County alleging that these entities have created a public nuisance by making guns available to juveniles in the Chicago area would be nullified.□□

"One death by a handgun is too many.□ But when 666 people are murdered in one year in just one city, as was the case in Chicago in 2001, we must wake up to reality and demand that something be done.□ Unfortunately, this bill takes us backwards and gives immunity to the very industry that has the power to regulate the manufacturing and distribution of its products," Schakowsky said.

□ Below are reasons why H.R. 1306 should not become law:

The bill prohibits lawsuits against manufacturers who do not exercise reasonable care in the manufacture or design of their products.

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- Manufacturers who design unsafe products are immune from liability under the bill's general prohibition against civil actions for damages as the result of the criminal or unlawful misuse of the product.□ Failing to provide trigger locks would not subject a manufacturer to liability if a child unlawfully misuses a gun to harm himself or a playmate.

□

- Manufacturers are further shielded from liability under the exception authorizing

lawsuits where physical injury results from a defective product "when used as intended." A person injured by a defective gun (even one subject to industry recall) that discharges when dropped may not have a claim under this provision if dropping a gun is not an intended use.

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The bill insulates sellers, distributors, dealers, and importers from liability for criminal, reckless, and negligent acts.

□

- The bill broadly defines sellers to include importers, dealers, and wholesale and retail distributors. Under the exception authorizing suit for those convicted for certain state or federal Brady-like offenses, an injured person's claim is contingent upon arrest, prosecution and conviction of the offender. The bill is silent on whether an injured person must forego filing a civil claim until after appeals have been exhausted. Even where there is a conviction, an injured person may lose the right to sue because there is no provision tolling the statute of limitations on a civil claim pending a conviction.

□

- The exception authorizing an action for "negligent entrustment" permits sellers to conduct irresponsible sales to gun traffickers who then pass on the products to criminals who cause injury to others. Under the bill, sellers are liable only where they know or should know the person to whom they sell the product may, and does, cause injury to another. Supplying guns through a middle-man insulates sellers from liability under this provision.

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The bill undermines the vested interests of litigants presently in court on claims barred by the bill.

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- The bill requires the dismissal of any pending litigation not covered by the exceptions. Litigation by survivors of victims of last fall's sniper shootings would be thrown out of court under this provision.